

September 26, 2012

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

RE: IRS Notice 2012-59 Guidance on 90-Day Waiting Period Limitation Under Public Health Service Act § 2708

To Whom It May Concern:

WorldatWork respectfully submits these comments in response to the request for comments in IRS Notice 2012-59: Temporary Guidance on 90-Day Waiting Period.

Background on WorldatWork

WorldatWork (www.worldatwork.org) is a not-for-profit global human resources association focused on compensation, benefits, work-life and integrated total rewards to attract, motivate and retain a talented workforce. Founded in 1955, WorldatWork provides a network of more than 30,000 members and professionals in more than 100 countries with training, certification, research, conferences and community. WorldatWork offers six certifications for rewards professionals, including the highly regarded Certified Benefits Professional (CBP) designation, which more than 2,600 professionals have earned since its introduction in 1993.

WorldatWork members are human resources professionals who believe there is a powerful exchange relationship between employer and employee, as demonstrated through the WorldatWork Total Rewards Model. Total rewards involve the deliberate integration of five key elements that effectively attract, motivate and retain the talent required to achieve desired organizational results. The five key elements are: compensation, benefits, work-life, performance and recognition, and development and career opportunities.

This model recognizes that total rewards operate in the context of overall business strategy, organizational culture and HR strategy, as well as a complex external environment. Within this context, an employer leverages the five elements to offer and align a value proposition that benefits both the organization and the employee. An effective total rewards strategy results in satisfied, engaged and productive employees, who in turn deliver desired performance and results.

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Comments on 90-Day Waiting Period Guidance

WorldatWork appreciates the opportunity to provide the following comments on IRS Technical Notice 2012-59, which provides temporary guidance relating to what the IRS will consider as compliance with the waiting period as outlined in the Public Health Service Act (PHS) Section 2708. We applaud the IRS for coordinating the 90-day waiting period guidance with the corresponding definition of “full-time employee.”

We polled a focus group of select members who have identified their main responsibilities as falling under the category of benefits administration to get their comments on the guidance. They suggested two clarifications to the guidance provided for the 90-day waiting period under PHS Section 2708.

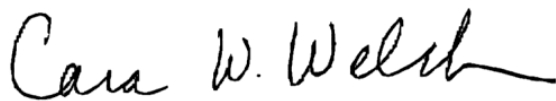
The first clarification they asked for was whether it was allowable for employers to enroll employees on the first of the calendar month coincident with or following the completion of 90 days of service since many employers have coverage periods that begin on the first of the month.

Secondly, Treasury Regulation 1.125-4(c)(4), Example 8, outlines a situation where an individual terminates employment with the expectation and understanding that he/she will be rehired shortly thereafter, and this “change in status” is to alter benefits eligibility and election. As such a situation could be intended to avoid compliance with the 90-day waiting period limitation, one focus group member suggested that regulations should include any such days in the employment gap period toward the 90-day waiting period limit.

Conclusion

In conclusion, we appreciate the opportunity to provide comment on IRS Notice 2012-59 regarding the 90-day waiting period with respect to PHS Section 2708. As we stated in a March letter to the Department of Labor, we applaud and encourage the IRS and Department of Treasury to continue to work with the Departments of Labor and Health and Human Services in developing coordinating regulations regarding the 90-day waiting period and automatic enrollment provisions in the Patient Protection and Affordable Care Act of 2010, Section 4980H.

Sincerely,



Cara Woodson Welch, Esq.
Vice President, Policy and Public Affairs